

Office of the Secretary of State
 Building 1 Suite 157-K
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 Charleston, WV 25305



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Natalie E. Tennant
 Secretary of State
 Telephone: 304-558-6000
 Toll Free: 866-SOS-VOTE
 www.wvsos.com

ControlNumber: 345337
 Defendant: A & A Express, Inc.
 County: 6
 Civil Action: 10/9/2012
 12-C-604

A & A Express, Inc.
 c/o A.J. Swanson
 27452 482nd Avenue
 Canton SD 57013-5515

I am enclosing:

<input type="checkbox"/> summons	<input type="checkbox"/> affidavit	<input checked="" type="checkbox"/> 1 summons and complaint
<input type="checkbox"/> notice	<input type="checkbox"/> answer	<input type="checkbox"/> summons and verified complaint
<input type="checkbox"/> order	<input type="checkbox"/> cross-claim	<input type="checkbox"/> summons and amended complaint
<input type="checkbox"/> petition	<input type="checkbox"/> counterclaim	<input type="checkbox"/> 3rd party summons and complaint
<input type="checkbox"/> motion	<input type="checkbox"/> request	<input type="checkbox"/> notice of materialmans lien
<input type="checkbox"/> suggestions	<input type="checkbox"/> notice to redeem	<input type="checkbox"/> notice of mechanic's lien
<input checked="" type="checkbox"/> 1 interrogatories	<input checked="" type="checkbox"/> 1 request for production	<input type="checkbox"/> re-issue summons and complaint
<input type="checkbox"/> discovery	<input type="checkbox"/> request for admissions	<input type="checkbox"/> subpoena duces tecum
<input type="checkbox"/> suggestee execution	<input type="checkbox"/> notice of uim claim	<input type="checkbox"/> Other
<input type="checkbox"/> subpoena	<input type="checkbox"/> writ	
<input type="checkbox"/> stipulation	<input type="checkbox"/> writ of mandamus	

which was served on the Secretary at the State Capitol as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of your unauthorized foreign corporation.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on behalf as your attorney-in-fact. Please address any questions about this document directly to the court or the plaintiff's attorney, shown in the enclosed paper, not to the Secretary of State's office.

Sincerely,

Natalie E. Tennant
 Secretary of State



SUMMONS

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

LINDSEY N. THAXTON,

Plaintiff,

v.

Civil Action No. 12-C-604
Judge: /s/ DAVID M. PANCAKE

**A & A EXPRESS, INC., a South Dakota
corporation and DANIEL M. HOFER,
individually,**

Defendants.

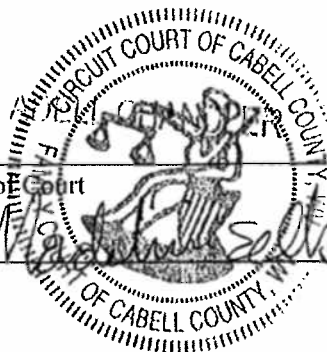
**TO: A & A Express, Inc.
c/o A. J. Swanson
27452 482nd Avenue
Canton, SD 57013-5515**

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon R. Chad Duffield, Plaintiffs' attorney, whose address is P.O. Box 3842, Charleston, West Virginia 25338, an answer, including any related counterclaim you may have, to the Complaint filed against you, along with the "Plaintiffs' First Set of Interrogatories and Requests for Production of Documents Directed to Defendant A & A Express, Inc." in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer to the Complaint within thirty (30) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint, and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action. The attached discovery requests contain the information about when and how your responses to those requests may be made.

Dated: SEP 13 2012

Clerk of Court

By: W. Martin Eds. Dep



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131

SUMMONS

RECEIVED
OCT 17 2012
MRO-6

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

LINDSEY N. THAXTON,

Plaintiff,

v.

Civil Action No. 12-C-604

Judge: 1st DAVID M. PANCAKE

A & A EXPRESS, INC., a South Dakota
corporation and DANIEL M. HOFER,
individually,

Defendants.

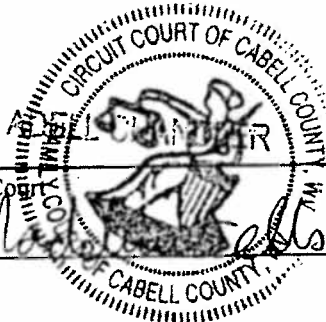
TO: Daniel M. Hofer
4505 W. Thad Place
Sioux Falls, SD 57106

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby Summoned and required to serve upon R. Chad Duffield, Plaintiffs' attorney, whose address is P.O. Box 3842, Charleston, West Virginia 25338, an answer, including any related counterclaim you may have, to the Complaint filed against you, along with the "Plaintiffs' First Set of Interrogatories and Requests for Production of Documents Directed to Defendant Daniel M. Hofer" in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer to the Complaint within thirty (30) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint, and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above-styled civil action. The attached discovery requests contain the information about when and how your responses to those requests may be made.

SEP 13 2012
Dated: _____

Clerk of Court

By: _____



IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

LINDSEY N. THAXTON,

Plaintiff,

v.

Civil Action No. 12-C-604
Judge: /s/ DAVID M. PANCAKE

A & A EXPRESS, INC., a South Dakota
corporation and DANIEL M. HOFER,
individually,

Defendants.

COMPLAINT

Comes now the Plaintiff, Lindsey N. Thaxton, by and through her counsel, Farmer, Cline & Campbell, PLLC, and hereby states the following for her Complaint:

Parties

1. The Plaintiff, Lindsey N. Thaxton (hereinafter "Ms. Thaxton" or "Plaintiff"), is a resident of Nitro, Kanawha County, West Virginia.
2. Defendant A & A Express, Inc. (hereinafter "A & A Express") is, upon information and belief, a South Dakota corporation and has a principal place of business at 1015 N. 9th Avenue, Brandon, South Dakota 57005.
3. Defendant Daniel M. Hofer (hereinafter "Defendant Hofer") is, upon information and belief, a resident of Sioux Falls, South Dakota.
4. Upon information and belief, at all times relevant to the claims asserted in this Complaint, Defendant Hofer was acting as an agent and/or employee of A & A Express.

Jurisdiction and Venue

5. Pursuant to *West Virginia Code* §§ 56-3-31 and 56-3-33, this Court has jurisdiction over the parties and claims asserted in this action as Defendant Hofer was acting as an agent and/or employee of A & A Express, when he caused a collision and tortious injury while driving a commercial vehicle on a public roadway in West Virginia.

6. Pursuant to *West Virginia Code* § 56-1-1, Cabell County is an appropriate venue for this action as it is the location where the accident occurred and the cause of action arose.

COUNT I

Negligence/Recklessness/Vicarious Liability

7. The Plaintiff incorporates by reference all preceding allegations contained within this Complaint.

8. Around 1:00 p.m. on October 7, 2010, Ms. Thaxton was operating a 2000 Toyota Celica in a lawful and proper manner in the left lane of Interstate 64, East, in Barboursville, Cabell County, West Virginia.

9. At the same time, Defendant Hofer was operating a tractor trailer in the right lane of Interstate 64, East, in Barboursville, Cabell County, West Virginia.

10. As Ms. Thaxton's vehicle was passing Defendant Hofer's tractor trailer, Defendant Hofer negligently and recklessly steered the tractor trailer into the left lane, where Ms. Thaxton and her car were traveling.

11. As a direct and proximate result of Defendant Hofer's negligent and reckless actions, Defendant Hofer's tractor trailer struck Ms. Thaxton's vehicle, causing it to proceed off of the roadway.

12. A & A Express is vicariously liable pursuant to the theories of principal/agency and respondeat superior for all wrongful actions and omissions which were committed by its agent/employee, Defendant Hofer.

13. As a direct and proximate result of the Defendants' negligent, careless and/or reckless conduct and the collision described above, Ms. Thaxton suffered severe injuries to her body for which has and will continue to experience and/or incur:

- (a) lost wages;
- (b) medical expenses;
- (c) lost educational expenses/benefits;
- (d) pain and suffering;
- (e) physical limitations;
- (f) diminished capacity to enjoy life;
- (g) annoyance and inconvenience; and
- (h) other consequences and damages associated with her injuries as may be specified as this action progresses.

COUNT II

Prima Facie Negligence

14. The Plaintiff incorporates by reference all preceding allegations contained within this Complaint.

15. Defendant Hofer, as an operator of a large commercial vehicle on a public roadway in West Virginia, owed a duty to the general public, and in particular to Ms. Thaxton, to obey all State and Federal laws and regulations with regard to acting as a motor carrier and operating a commercial vehicle involved in interstate trucking.

16. Pursuant to *West Virginia Code* § 17C-7-9(a)(1), Defendant Hofer was required to operate his tractor trailer within a single lane of travel and abstain from moving from that lane until he ascertained that such movement could be safely made.

17. Defendant Hofer violated the requirements of *West Virginia Code* §17C-7-9 by improperly driving into Ms. Thaxton's lane of travel when it was unsafe to do so.

18. Defendant Hofer's violation of the law proximately caused the collision, Ms. Thaxton's injuries and damages, as set forth above.

19. Defendant Hofer's wrongful conduct constitutes prima facie evidence of negligence and is actionable.

WHEREFORE, the Plaintiff requests that she be awarded judgment against Defendants, A & A Express, Inc. and Daniel M. Hofer, jointly and severally, for the following:

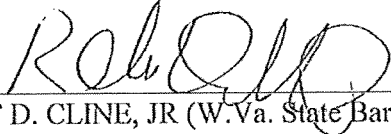
- (a) compensatory damages in an amount to be determined by a jury;
- (b) punitive damages, to the extent that the conduct of any or all of the Defendants warrants such damages;
- (c) pre and post judgment interest as allowed by law;
- (d) attorneys' fees, costs and expenses incurred in connection with this action; and
- (e) such other and further relief as the Court deems just and appropriate under the circumstances.

PLAINTIFF DEMANDS A TRIAL BY JURY.

LINDSEY N. THAXTON,

Plaintiff,

By Counsel:



ROBERT D. CLINE, JR (W.Va. State Bar No. 755)
ROBERT A. CAMPBELL (W.Va. State Bar No. 6052)
R. CHAD DUFFIELD (W.Va. State Bar No. 9583)
JENNIFER L. DIETZ (W.Va. State Bar No. 11165)
FARMER, CLINE & CAMPBELL, PLLC
746 Myrtle Road (25314)
Post Office Box 3842
Charleston, West Virginia 25338
(304) 346-5990

CIVIL CASE INFORMATION STATEMENT
CIVIL CASES

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

I. CASE STYLE:

Plaintiff

LINDSEY N. THAXTON,

vs.

Case # 12-C-604
Judge /s/ DAVID M. PANCAKE

Defendant(s)

Days to
Answer

Type of Service

A & A Express, Inc.
c/o A. J. Swanson
27452 482nd Avenue
Canton, SD 57013-5515

30

W.Va. Sec. of State

Daniel M. Hofer
4505 W. Thad Place
Sioux Falls, SD 57106

30

W.Va. Sec. of State

Original and 4 copies of Complaint furnished herewith.

PLAINTIFF: Lindsey N. Thaxton DEFENDANTS: A & A Express, Inc. And Daniel M. Hofer	CASE NUMBER: <u>12-C-604</u>

II. TYPE OF CASE:

TORTS	OTHER CIVIL	
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Adoption	<input type="checkbox"/> Appeal from Magistrate Court
<input type="checkbox"/> Professional Malpractice	<input type="checkbox"/> Contract	<input type="checkbox"/> Petition for Modification of Magistrate Sentence
<input checked="" type="checkbox"/> Personal Injury	<input type="checkbox"/> Real Property	<input type="checkbox"/> Miscellaneous Civil
<input type="checkbox"/> Product Liability	<input type="checkbox"/> Mental Health	<input type="checkbox"/> Other
<input type="checkbox"/> Other Tort	<input type="checkbox"/> Appeal of Administrative Agency	<input type="checkbox"/> Fraud and Conversion

III. JURY DEMAND: ☒ Yes ☐ NoCASE WILL BE READY FOR TRIAL BY (MONTH/YEAR): 09 / 13IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE? ☐ YES ☒ NO

IF YES, PLEASE SPECIFY:

- ☐ Wheelchair accessible hearing room and other facilities
☐ Interpreter or other auxiliary aid for the hearing impaired
☐ Reader or other auxiliary aid for the visually impaired
☐ Spokesperson or other auxiliary aid for the speech impaired
☐ Other: Unknown at this time

Attorney Name: R. Chad Duffield (WV State Bar No. 9583)

Representing:

Firm: FARMER, CLINE & CAMPBELL, PLLC☒ PlaintiffAddress: P.O. Box 3842☐ DefendantCharleston, WV 25338☐ Cross-DefendantTelephone: (304) 346-5990☐ Cross-ComplainantDated: September 12, 2012☐ Pro SeSignature: 